

HOUSE BILL NO. 215

INTRODUCED BY CAFERRO

BY REQUEST OF THE DEPARTMENT OF COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE REFERENCES TO THE DEVELOPMENTAL DISABILITIES PLANNING AND ADVISORY COUNCIL TO REFERENCES TO THE MONTANA COUNCIL ON DEVELOPMENTAL DISABILITIES; REORGANIZING ASSOCIATED STATUTES; AMENDING SECTIONS 2-15-1869, 2-15-1870, 53-20-202, 53-20-203, AND 53-20-205, MCA; REPEALING SECTION 53-20-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-1869, MCA, is amended to read:

"2-15-1869. ~~Developmental~~ Montana council on developmental disabilities planning and advisory council. (1) The governor shall appoint a Montana council on developmental disabilities planning and advisory council in accordance with the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, codified at 42 U.S.C. 15001, et seq.

(2) In addition to the members appointed under subsection (1), the council must include one member of the senate and one member of the house of representatives.

(3) (a) Except as provided in subsection (3)(b), members of the council serve 1-year terms.

(b) Of the members described in 42 U.S.C. 15025(b)(3) who represent persons with developmental disabilities and parents or relatives of persons with developmental disabilities, the governor shall appoint:

(i) not less than one-half of the members to serve for terms concurrent with the gubernatorial term and until their successors are appointed; and

(ii) the remaining members to serve for terms ending on January 1 of the third year of the succeeding gubernatorial term and until their successors are appointed.

(4) Members appointed to the council may also be selected to represent the geographical regions and the racial and ethnic composition of the state, including American Indians.

(5) A council member, unless the member is a full-time salaried officer or employee of this state or any of the political subdivisions of this state, is entitled to be paid in an amount to be determined by the council, not

1 to exceed \$25, for each day in which the member is actually and necessarily engaged in the performance of
2 council duties. A council member is also entitled to be reimbursed for travel expenses incurred while in the
3 performance of council duties as provided for in 2-18-501 through 2-18-503. Members who are full-time salaried
4 officers or employees of this state or any political subdivisions of this state are not entitled to be compensated
5 for their service as members but are entitled to be reimbursed for travel expenses as provided for in 2-18-501
6 through 2-18-503.

7 (6) The council shall:

8 (a) advise the department of public health and human services, other state agencies, TRIBAL
9 GOVERNMENTS, councils, local governments, and private organizations on programs for services to persons with
10 developmental disabilities; and

11 (b) serve in any capacity required by the Developmental Disabilities Assistance and Bill of Rights Act
12 of 2000, Public Law 106-402, or by other federal law for the administration of federal programs for services to
13 persons with developmental disabilities.

14 ~~(5)(7)~~ (a) Except Unless the state enters a contract with a nonprofit corporation as provided in
15 2-15-1870, the council:

16 (i) is allocated to the department of commerce for administrative purposes only and, unless inconsistent
17 with the provisions of 53-20-206 and this section, the provisions of 2-15-121 apply;

18 (ii) may elect from among its members the officers necessary for the proper management of the council;

19 (iii) may adopt rules governing its own organization and procedures, and a majority of the members of
20 the council constitutes a quorum for the transaction of business; and

21 (iv) shall employ and fix the compensation and duties of necessary staff and control the location of its
22 office.

23 (b) The department of commerce shall remain the designated state agency for funding purposes if the
24 responsibilities of the council are delegated by contract to a nonprofit corporation as provided in 2-15-1870."
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26 **Section 2.** Section 2-15-1870, MCA, is amended to read:

27 **"2-15-1870. State Montana council on developmental disabilities planning and advisory council**
28 **-- contract with nonprofit corporation.** The state may contract with a nonprofit corporation for the purposes
29 of carrying out the responsibilities delegated to the ~~statewide~~ Montana council on developmental disabilities
30 ~~planning and advisory council~~ appointed pursuant to 2-15-1869 in accordance with the Developmental

Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and this section. Approval of the contract delegating the responsibilities of the council to a nonprofit corporation must be in the form of a letter signed by the secretary of the federal department of health and human services or the secretary's designee."

Section 3. Section 53-20-202, MCA, is amended to read:

"53-20-202. Definitions. As used in this part, the following definitions apply:

(1) "Comprehensive developmental disability system" means a system of services, including but not limited to the following basic services, with the intention of providing alternatives to institutionalization:

- (a) evaluation services;
- (b) diagnostic services;
- (c) treatment services;
- (d) day-care services;
- (e) training services;
- (f) education services;
- (g) employment services;
- (h) recreation services;
- (i) personal-care services;
- (j) domiciliary-care services;
- (k) special living arrangements services;
- (l) counseling services;
- (m) information and referral services;
- (n) follow-along services;
- (o) protective and other social and sociolegal services; and
- (p) transportation services.

(2) "Department" means the department of public health and human services.

(3) "Developmental disabilities" means disabilities attributable to mental retardation, cerebral palsy, epilepsy, autism, or any other neurologically disabling condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals if the disability originated before the person attained age 18, has continued or can be expected to continue indefinitely, and results in the person having a substantial disability.

(4) "Developmental disabilities facility" means any service or group of services offering care to persons with developmental disabilities on an inpatient, outpatient, residential, clinical, or other programmatic basis.

~~(5) "Planning and advisory council" or "council" means the developmental disabilities planning and advisory council created in 2-15-1869."~~

Section 4. Section 53-20-203, MCA, is amended to read:

"53-20-203. Responsibilities of department. The department shall:

(1) take cognizance of matters affecting the citizens of the state who are persons with developmental disabilities;

(2) initiate a preventive developmental disabilities program that must include but not be limited to the implementation of developmental disabilities care, treatment, prevention, and research as can best be accomplished by community-centered services. Every means must be used to initiate and operate the service program in cooperation with local agencies under the provisions of 53-20-205.

(3) collect and disseminate information relating to developmental disabilities;

(4) prepare, ~~with the assistance of the planning and advisory council,~~ an annual comprehensive plan for the initiation and maintenance of developmental disabilities services in the state. The services must include but not be limited to community comprehensive developmental disabilities services as referred to in 53-20-202.

(5) provide by rule for the evaluation of persons who apply for services or persons admitted into a program at a developmental disability facility;

(6) receive from agencies of the government of the United States and other agencies, persons or groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials, and contributions to initiate and maintain developmental disabilities services within the state;

(7) require that habilitation plans be developed, implemented, and continuously maintained for all persons with developmental disabilities who are served through a community-based program funded by the state; and

(8) use funds available for cases in which special medical or material assistance is necessary to rehabilitate children with developmental disabilities or children with physical disabilities if the assistance is not otherwise provided for by law."

Section 5. Section 53-20-205, MCA, is amended to read:

1 **"53-20-205. Community services.** (1) The department may establish and administer community
2 comprehensive services, programs, clinics, or other facilities throughout the state for the purpose of aiding in
3 the prevention, diagnosis, amelioration, or treatment of developmental disabilities. Programs, clinics, or other
4 services may be provided directly by state agencies or indirectly through contract or cooperative arrangements
5 with other agencies of government, regional or local, private or public agencies, private professional persons,
6 or accredited health or long-term care facilities.

7 (2) The department may contract for programs for developmental disabilities services. Contracts entered
8 into by the department must contain specific conditions for performance by the contractor. The department shall
9 set minimum standards for programs and establish appropriate qualifications for persons employed in ~~such~~ the
10 programs.

11 (3) All developmental disabilities facilities and services must comply with existing federal guidelines and
12 with requirements that will enable the services and facilities to qualify for available aid funds. However, this
13 section does not require facilities serving persons with developmental disabilities to meet the same or equal
14 standards as licensed medical facilities unless the developmental disabilities facility is providing professional
15 or skilled medical care.

16 (4) Comprehensive services, programs, clinics, or other facilities established or provided by the
17 department under this part must conform as nearly as possible to the plans of the ~~advisory~~ council created under
18 2-15-1869.

19 (5) The department may promote scientific and medical research investigations relative to the incidence,
20 cause, prevention, and care of persons with developmental disabilities."
21

22 NEW SECTION. **Section 6. Repealer.** Section 53-20-206, MCA, is repealed.
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24 NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.
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